IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6450 of 1988

For Approval and Signature:

HON'BLE MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KUMARI USHA PRITAMAL PANDYA

Versus

GUJARAT WATER SUPPLY AND SEWERAGE BOARD,

Appearance:

1. Special Civil Application No. 6450 of 1988

MS. ARCHANA AMIN for MR MURALI N DEVNANI

Advocate for the Petitioner

MR JAYANT P BHATT for Respondent No. 1

RULE SERVED BY DS for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE R.K.ABICHANDANI

Date of decision: 28/08/2003

ORAL JUDGEMENT

#. The petitioner seeks a direction on the

respondent-Board to appoint her to the post of Junior Clerk on regular basis, and to award her all consequential benefits, including the arrears of salary.

#. It is strongly contended on behalf of the petitioner that the petitioner was being appointed under the separate orders issued after every 28 days, with a view to deny the petitioner continuity in service and regular nature of the appointment. It was pointed out that the Executive Engineer, in his certificate, dated NIL, a copy of which is at Annexure:B, had certified that the petitioner had worked under eight different orders between 8th October, 1984 and 11th November, 1985 for 28 days under each order as Junior Clerk.

#. It is clear from the order of the petitioner's appointment, dated 8.10.'94 at Annexure:A that her appointment was purely on temporary basis for specified period of 28 days in view of the temporary promotion given to a Junior Clerk as Senior Clerk. Such appointment was given from time to time under the orders which are mentioned at Annexure:B to the petition. However, as stated by the respondent no. 2 in the affidavit-in-reply, orders were issued on 8.3.'85, 8.4.'85, 8.5.'85, 15.10.'85, 1.4.'87, 25.5.'87 and 16.6.'87 for such temporary appointment by way of stop-gap arrangement. It would be seen that the petitioner was not given any appointment from November, 1985 to March, 1987. Even in between June to September, 1985, there was no appointment order issued. It would, therefore, be not correct to say that the petitioner was continuously working as Clerk under a chain of orders without any break. The last order, dated 16th June, 1987, a copy of which is annexed with the affidavit-in-reply, also shows that her engagement was purely temporary and that she was to be treated as automatically relieved at the end of the period of her engagement as Junior Clerk. Since the petitioner has no right to claim appointment on the basis of such stop-gap arrangement, her claim for regular appointment is misconceived. It is neither based on a statutory rule or regulation, nor do the facts justify the claim for regular appointment. The petition is, therefore, dismissed. Rule is discharged with no order as to costs.

[R.K. ABICHANDANI, J.]

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